

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

MA'LISSA SIMMONS, MONTERRUS)	
MARSHALL, YOLANDA CARRAWAY)	
and DELANA PRUITT, on behalf of themselves)	CIVIL ACTION NO. 07-CV-496
and all others similarly situated,)	
)	
Plaintiffs,)	
v.)	
)	
UNITED MORTGAGE AND LOAN INVESTMENT,)	
LLC, ARTHUR E. KECHIJIAN, LARRY E. AUSTIN,)	
AUSTIN INVESTMENTS, L.P., KECHIJIAN)	
INVESTMENTS, L.P., UMLIC CONSOLIDATED,)	
INC., UMLIC HOLDINGS, LLC, UMLIC-SEVEN)	
CORP., UNITED MORTGAGE HOLDINGS, LLC, and)	
UNITED MORTGAGE LOAN AND INVESTMENT,)	
L.L.C.)	
)	
Defendants.)	

**DEFENDANTS' MOTION TO DISMISS FOR LACK OF SUBJECT MATTER
JURISDICTION AND REQUEST FOR ORAL ARGUMENT**

Defendants, by the undersigned, move the Court pursuant to Federal Rule of Civil Procedure 12(b)(1) to dismiss all claims stated in the Amended Complaint for lack of subject matter jurisdiction. Specifically, Defendants have offered to satisfy Plaintiffs' claims in their entirety. Plaintiffs' case is now moot and must be dismissed since there is no longer any live case or controversy requiring litigation.

In support of this motion, Defendants offer the Court the Memorandum of Law in Support of Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction filed simultaneously with this Motion. For the reasons stated in that Memorandum of Law, this Court must dismiss Plaintiffs' entire Amended Complaint with prejudice for lack of subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1).

Defendants believe the Court will be assisted by oral argument which will allow a more complete presentation of the issues raised in this motion. Therefore, Defendants respectfully request oral argument for this motion.

This 29th day of May, 2008.

/s/ Kevin V. Parsons
N.C. State Bar No. 19226
PARKS, CHESIN & WALBERT, P.C.
521 E. Morehead Street, Suite 120
Charlotte, North Carolina 28202
Telephone: (704) 377-2770
Email: kparsons@pcwlawfirm.com

Aaron M. Christensen
NC State Bar No. 21663
SMITH AND CHRISTENSEN, L.L.P.
One Fairview Center
6302 Fairview Road, Suite 309
Charlotte, North Carolina 28210
Phone: (704) 522-1616
Email: christensen@smithchrist.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing “Defendants Motion to Dismiss for Lack of Subject Matter Jurisdiction and Request for Oral Argument” in the above-captioned proceeding has been electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will automatically send notification to the following:

Burton Craige
Leto Copeley
Jessica E. Leaven
PATTERSON HARKAVY LLP
100 Europa Drive, Suite 250
Chapel Hill, North Carolina 27517

This the 29th day of May, 2008.

/s/ Kevin V. Parsons
N.C. State Bar No. 19226
Attorney for Defendants
PARKS, CHESIN & WALBERT, P.C.
521 E. Morehead Street, Suite 120
Charlotte, North Carolina 28202
Telephone: (704) 377-2770
Email: kparsons@pcwlawfirm.com